



April 2, 2003

Country of Origin Labeling Program
Agricultural Marketing Service, USDA
Stop 0249, Room 2092-S,
1400 Independence Avenue, SW
Washington, D.C. 20250-0249

Comments in regard to: [Docket Number LS-02-13]

Establishment of Guidelines for the Interim Voluntary country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts Under the Authority of the Agricultural Marketing Act of 1946.

Dear USDA – Agricultural Marketing Service:

OBIM Fresh-cut Fruit Co., LLC respectfully submits the following comments regarding Federal Register Notice of October 8, 2002, United States Department of Agriculture-Agricultural Marketing Service, (AMS), Establishment of Guidelines for the Interim Voluntary country of Origin Labeling.

OBIM Fresh-cut Fruit, a Fort Worth, Texas, processor of fresh-cut fruits and vegetables, with its partner companies, Ready Pac Produce and Missa Bay of Irwindale, CA, Florence, NJ and Swedesboro, NJ, respectively, is the largest processor of fresh-cut fruit in the United States. We strive to be good corporate citizens in our community and are extremely concerned about getting the desired, accurate, and effective information to our end user consumers. In this regard, we would like to encourage the very careful development and implementation of the proposed COOL Guidelines. Though we have never had a request for Country of Origin on any of our raw products from any consumer, we certainly wish to be on the front end either on comments or on our ability to respond to consumer issues.

That said, we believe the emphasis should be placed on the following:

1. **Harmonization with existing FDA, PACA, and US Customs Service rules and regulations:** Much of the requirements in the COOL regulations can be addressed by simply adapting existing guidelines. We strongly recommend that the USDA COOL guidelines conform to current FDA, PACA, and U.S. Customs Service regulations. For example, FDA's manufacturer labeling requirements

(i.e. street address, city and state) should satisfy the COOL requirements for "Produce of USA" labeling. **Recommendation:** The AMS should also consider the country of origin requirements covered under other statutes, such as PACA, that allow country of origin designations on shipping documents like invoices, bills of lading, and other types of "labeling". These documents and the existing system provide sufficient notification to retailers of the country of origin of the commodity they are ordering and receiving. PACA already requires two years worth of record retention. Recognition of duplication and unnecessary redundancy of record keeping is especially important in light of the PACA provisions.

2. **Avoid over-labeling, excessive, or confusing labeling requirements:**

Identification of individual commodities by country of origin would be overly burdensome for any processor in the fresh-cut industry to implement as currently proposed. **Recommendation:** Build in overall flexibility in verbiage, font size, and location, allowing options like printing a block of information that can be accommodated with on-line printing mechanisms. In many instances, this would eliminate the need for multiple pre-printed packaging inventories. We would like the option to be able to add the information to either the existing label or to another label as the size configurations we pack in, vary greatly in size.

3. **Avoidance of unfeasible or unnecessarily burdensome labeling requirements:**

A strict reading of the regulations on labeling will impose onerous requirements. Fresh-cut package ingredient declarations are typically located on pre-printed packaging materials. Due to sourcing of various individual components from numerous countries, the COOL regulations would require us to maintain packaging inventories with an almost infinite number of versions of ingredient declarations designating the country of origin for each individual component.

Example: If an item has seven ingredients and five potential countries of origin, the combination of labels that would have to be on hand for this item alone could potentially result in some 2,250 versions of the same label! Even the simple requirement for country of origin labeling for a single-ingredient product would necessitate doubling, tripling, or quadrupling the required inventory of labels. This becomes even more burdensome if the COOL guidelines are not compatible with the regulations of our NAFTA partners.

Recommendation: We believe that requiring country of origin labeling on multi-component, multi-country of origin products is not at all feasible and an exercise in futility, effectively building in unavoidable non-compliance.

It is our belief that the existing U.S. Customs Service regulations adequately meet the expectations of the U.S. congress without adding a significant burden to the Fresh-cut industry.

Further, we believe it would be extremely helpful to have the option to indicate on the label "processed in the United States", and then to list what specific countries where produce within the container comes from, and this should be more than adequate. An example of this would be "processed in the United States with produce from Costa Rica, Mexico and the United States", as opposed to indicating singularly where each item is from and also listed by weight.

When the density of fruit changes within a pallet, it will be impossible to know the weight within the container unless each piece of fruit is weighed. The more fruit is touched, the more it is bruised. Further, the more touching or weighing of individual pieces that might occur, the much greater likelihood of contamination of fruit that may occur. It seems logical, then, that if we are providing the various countries that the fruit in the container comes from, that consumers get informed, and everyone's needs would be better served.

4. **Avoidance of potentially confusing and redundant record keeping requirements.** Use existing record keeping and tracing systems: By not using existing record keeping and tracing mechanisms, the regulation will add additional time and expense to the system, imposing additional pressures and complexity and confusion that could result in inaccuracy.

Our issue is not to debate the merits of this legislation, as it is already passed law, but to provide our comments with the possible hope that they may yet influence the regulations. One concern that we have is that product produced in another country and shipped here, merely needs an indication of "produce of Mexico" or "produce of Costa Rica" for example, though their produce may come from four or five different countries, and is thus exempt from COOL legislation. This makes us look at exporting future plant growth to outside the United States. Obviously, this was not the intention of the legislation, but to have countries outside not have to conform to the legislation, perhaps might provide an impetus to make the regulations as simple as possible both for the processor and the consumer.

Thank you kindly for listening to our comments.

Very truly yours,

A handwritten signature in cursive script that reads "Paul Janiak".

Paul A. Janiak
President, OBIM Fresh-cut Fruit Co., LLC